



May 30, 2008

Ms. Delores Brown
Chief, Office of Environmental Compliance
California Department of Water Resources
P.O. Box 942836
Sacramento, CA 94236
(delores@water.ca.gov)

Dear Ms. Brown:

This letter provides the Conaway Preservation Group's comments on the Notice of Preparation ("NOP") for the Bay Delta Conservation Plan ("BDCP") – Joint Environmental Impact Statement / Environmental Impact Report ("EIS/EIR").

Introduction

The Conaway Preservation Group, LLC ("Conaway") owns the Conaway Ranch in Yolo County. The Conaway Ranch property covers over 17,000 acres on the west side of the Sacramento River between the cities of Davis and Woodland (See Figure 1). Conaway Ranch has been operated for many years to meet goals of agricultural production and waterfowl/wildlife habitat. Approximately 40 percent of the Ranch is located within the Yolo Bypass and the remainder lies west of the bypass. Over the past few years Conaway has sought to engage local and state agencies in an effort to develop and implement a multi-benefit project on the Ranch. Conaway has developed several proposals that could be funded in part through Propositions 1E, 84, and others¹ for projects to improve flood protection, improve water quality, preserve open space, and provide fish and wildlife habitat. The Conaway Ranch occupies a strategic location that makes it ideal for a wide variety of projects and programs that the EIR/EIS should evaluate and consider.

The EIR/EIS And The BDCP Should Include An Analysis And Consideration Of Conservation Opportunities And Mitigation Measures Upstream Of The Delta

The NOP states that the planning area for the BDCP will consist of the aquatic ecosystems and natural communities, and potentially adjacent riparian and floodplain natural communities, within the statutory Delta. The NOP emphasizes the necessity for the BDCP to include conservation actions outside of the statutory Delta that advance the

¹ The two propositions are also known as the Safe Drinking Water, Water Quality and Supply, Flood Control and Coastal Protection Bond Act of 2006, and the Disaster Preparedness and Flood Prevention Bond Act of 2006.

goals and objectives of the BDCP within the Delta, including as appropriate conservation actions in the Suisun Marsh, Suisun Bay, and areas upstream of the Delta. (NOP at 8) Conaway urges the BDCP to broadly consider upstream actions that could benefit the Delta and the species and ecosystems at the heart of the BDCP as well as many others. The comprehensive approach we recommend is consistent with numerous other findings made by scientists and resource managers.

For instance, in November 2007 the Independent Science Advisors Report ("ISA Report") developed numerous recommendations and guidelines that it believed the BDCP must follow in order to successfully achieve its goals. One of only three over-arching principles listed in the ISA Report is that, "[t]he Delta is part of a larger river-estuarine system that is affected by both rivers and tides. The Delta is also influenced by long-distance connections, extending from the headwaters of the Sacramento and San Joaquin Rivers into the Pacific Ocean." (ISA Report at iv) Therefore, the advisors emphasized "that the Delta is embedded within a larger environmental context and cannot be managed as an isolated system." (ISA Report at 10) They recommended examining possible bottlenecks at other life stages of "Covered Species" of fish and wildlife, including those that occur outside the planning area, rather than only those at the life stage immediately affected by "Covered Activities". (ISA Report at vii-viii) Conaway concurs in these recommendations and urges the BDCP and EIS/EIR to explore them.

The BDCP Should Specifically Consider Opportunities In The Yolo Bypass

Conaway believes that the Yolo Bypass should be a major component of any upstream conservation measures in the BDCP, or mitigation for impacts created by various BDCP covered activities, and that the EIS/EIS should address this issue. The unique value and importance of the Yolo Bypass has been recognized by countless investigations, and the BDCP must seriously consider implementing the long-discussed restoration and enhancement opportunities that have been characterized by many as "no-regrets" actions.

For instance, the Public Policy Institute of California's 2007 report, "Envisioning Futures for The Sacramento-San Joaquin Delta ("PPIC Report")" included the following discussion regarding the Yolo Bypass:

The Delta doubles in size when the Yolo Bypass is flooded. The problem is that the bypass floods only erratically and not always at times optimal for fish and birds. The bypass presents some major opportunities for ecosystem manipulation (e.g., by gating the Fremont Weir), which are currently under discussion (Department of Fish and Game, 2006). It is also a major spawning and rearing area for splittail and other native fish, a rearing area for juvenile salmon, and a potential source of nutrients for Delta food webs (Sommer et al., 2001a and 2001b). This region could act as a major interface with the Delta ecosystem, especially in the Cache Slough region, a role that will likely grow in importance, both through deliberate manipulations and through the increased frequency of flooding as a result of climate change. (PPIC Report at 79)

Similarly, the Pelagic Fish Action Plan, developed by the Resources Agency, DWR, and DFG also discussed providing flows through the Yolo Bypass to improve conditions for several life stages of Delta smelt, among others. (See pages 6, 49-50)

Conaway has continually pressed for such restoration actions within the Yolo Bypass because it believes, like most other scientists and resource managers, that such efforts will aid endangered and threatened fish species, and also provide multiple benefits including additional flood protection, preserved open space, better water quality, and improved habitat for other terrestrial and aquatic species. Conaway is willing to discuss ways it can participate and assist in providing increased flows through the Yolo Bypass and in implementing other measures to provide essential habitat elements within the reaches of the Yolo Bypass it owns and other areas downstream. We also recognize that some of the comprehensive multi-benefit actions may require coordination among many landowners and managers in the Yolo Bypass, and forums exist to address this need.

The BDCP Should Consider Additional Species

The NOP explains that the EIR/EIS will include an analysis of the effects of the proposed plan and other alternatives, including potential impacts to terrestrial resources that may or may not be addressed as covered species by the BDCP. (NOP at 9) Conaway agrees that the BDCP and the EIS/EIR should consider a wide range of species, habitats, and ecosystems to properly achieve its goals. As explained above, the Delta is not an isolated component, but rather one part of a highly complex and integrated system that begins in the headwaters of the Delta's major tributaries and ends in the Pacific Ocean. Therefore, in addition to the currently listed species, the BDCP and the EIS/EIR should consider the additional terrestrial species mentioned in the NOP (i.e., Giant Garter Snake, Valley Elderberry Longhorn Beetle, Swainson's Hawk, and Bank Swallow), as well as other species of plants and animals that may be affected by activities proposed in the EIS/EIR or later activities.

The BDCP EIR/EIS will, in many instances, likely be at a programmatic level, but it is at this level that comprehensive thought should be given to landscape-level and ecosystem-level processes. Within the planning horizon of 50 years, the larger Delta ecosystem will surely be affected by changes in climate, urbanization and demographics. Thus, while the BDCP should be focused on the species of most legal and biological concern, it should not be so narrowly focused that the comprehensive vision and planning necessary to achieve a Delta solution for multiple species and all stakeholders is excluded. Such an approach is consistent with the ISA Report, which explained that:

Given that regulatory assurance is a priority for the Potentially Regulated Entities (PREs), it is prudent to examine the potential effects of Covered Activities on the full range of species that are listed under federal and state endangered species acts, or are likely to be listed during the permit period. For example, plant and animal species associated with tidal marsh and riparian vegetation may be candidates for coverage by the Plan depending on the final array of Covered Activities. (ISA Report at 14)

Conaway believes that there are valuable opportunities within and adjacent to the Yolo Bypass to take actions benefitting this broader suite of species.

The BDCP Should Consider Improving The Water Quality Of Flows From Yolo County

In the Governor's February 28, 2008 letter to Senators Perata, Machado, and Steinberg, he explained the major focus of his administration's Delta Vision Blue Ribbon Task Force. Water quality was among the seven major issues highlighted. The ISA Report also explained that changes in water quality have important direct and indirect effects throughout the estuarine ecosystem. (ISA Report at v) Numerous other reports have identified water quality as a factor currently placing stress on the Delta ecosystem and the listed fish species that are the focus of the BDCP.

It is well known that major sources of pollution and contaminants to the Delta originate upstream in wastewater and stormwater discharges. Therefore, the BDCP and the EIS/EIR should particularly consider ways to address the quality of water flowing through into the Delta from Woodland, Davis, and other parts of Yolo County, especially as they may relate to restoration efforts in the Yolo Bypass. Not only will this aid aquatic and terrestrial species, it will also improve the water quality of the Delta, which serves as a source of drinking water for millions of Californians. There may be similar concerns regarding discharges to the Sacramento River, although that goes beyond the scope of our concerns.

Conaway believes that there is an opportunity to implement the above-mentioned habitat and floodplain restoration efforts in the Yolo Bypass in a way that also addresses water quality. These water quality issues should be addressed now because they are and will continue to affect Delta water quality as Yolo County's population grows over the next 50 years. This is especially true in light of the unmatched potential of the Yolo Bypass to aid the BDCP effort. Thus, Conaway urges the EIS/EIR and the BDCP to integrate water quality investigations into the potential Yolo Bypass conservation and mitigation measures previously discussed.

Conclusion

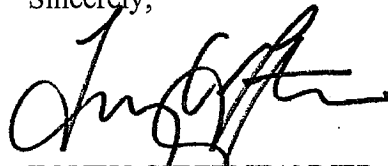
The NOP explains that, "[w]here appropriate, conservation actions outside the Statutory Delta would be implemented pursuant to cooperative agreements or similar mechanisms with local agencies, interested non-governmental organizations, landowners, and others as appropriate." (NOP at 8) As an area directly upstream of the Delta, and partly within the Yolo Bypass, Conaway Ranch provides many options for a wide array of those conservation actions.

Conaway has several unique attributes that will allow rapid implementation of any conservation or mitigation projects. Of major importance for implementation is the fact that Conaway owns 17,000 contiguous acres. In addition, Conaway owns 85 percent of the land within Reclamation District 2035, a local agency that could partner with the

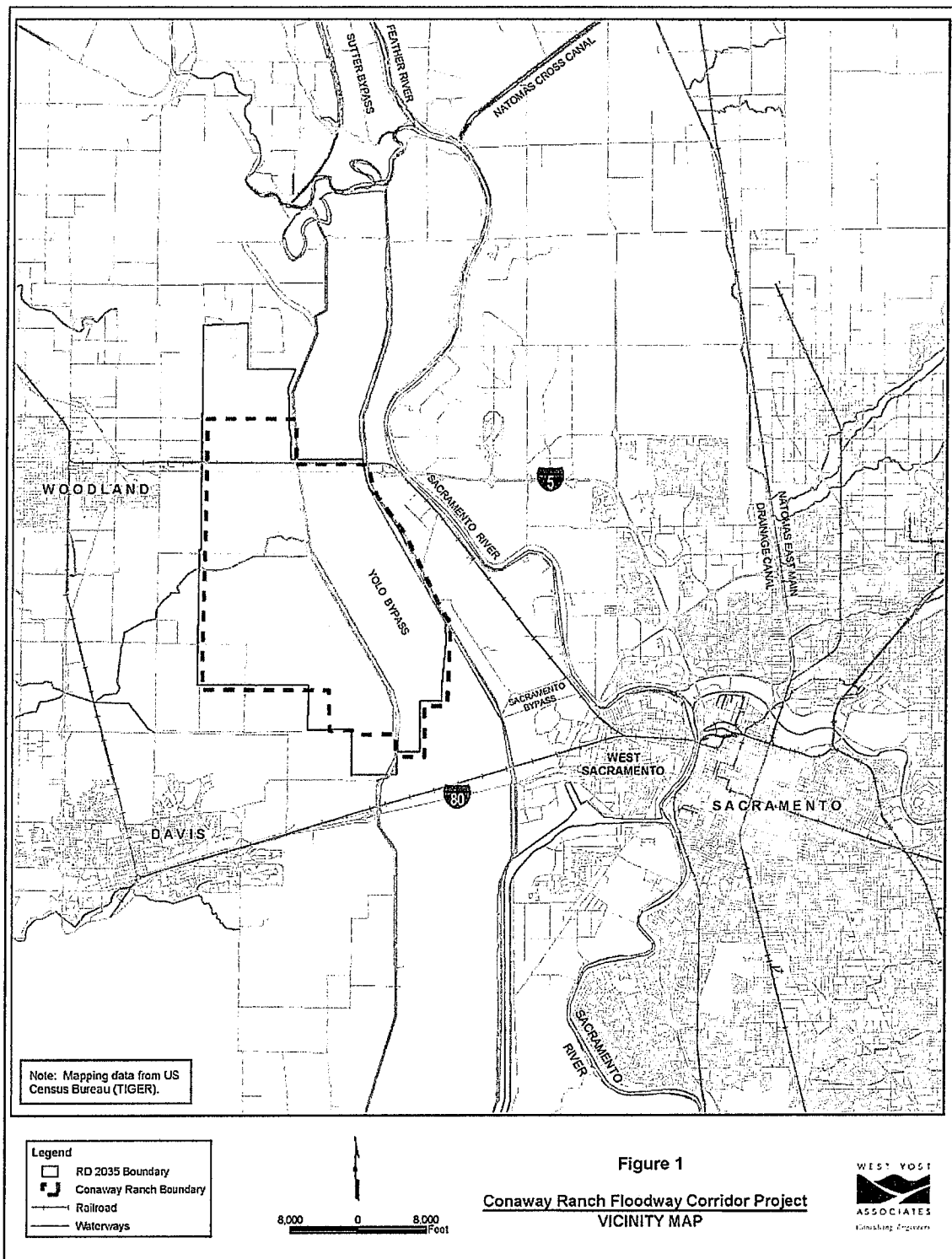
BDCP efforts. Both Reclamation District 2035 and Conaway can be cooperating partners with the BDCP agencies and entities. These circumstances greatly reduce transactional costs and delays because necessary project components such as potential flood easements, rights of way, and other permits can be obtained through negotiations with one party instead of many. Additionally, because Conaway has preserved the agricultural heritage of the Conaway Ranch, there are few infrastructure and other hurdles to delay implementation of a wide variety of conservation or mitigation measures.

In sum, this letter provides general comments regarding the necessity of the EIS/EIR to focus on upstream conservation and mitigation actions, additional terrestrial and aquatic species, and water quality improvement opportunities. However, Conaway intends this letter to be a catalyst for further discussions and detailed analysis of the specific opportunities available in the Yolo Bypass and on the Conaway Ranch property. Conaway will continue to be engaged in the BDCP process, and will gladly offer additional data, information, or insight regarding these opportunities. Please do not hesitate to contact me to discuss this letter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Tovey Giezantanner', written over a horizontal line.

TOVEY GIEZANTANNER
President



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